

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

SEP 1 6 2004

Examiner

Zandra V. Smith

Group Art Unit

2877

Applicants

James L. Overbeck et al

Serial No. Filed

09/733,162

Attorney Docket No.:

December 8, 2000 64384.68354-002

For

OPTICAL MEASUREMENT DEVICE AND

RELATED PROCESS

MS PETITION Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 RECEIVED

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TECHNOLOGY CENTER 2800 SPECIAL PROGRAM CENTER

PETITION UNDER 37 C.F.R. §1.8 TO WITHDRAW **HOLDING OF ABANDONMENT**

Applicants petition the Commissioner to withdraw the holding of abandonment as advised in the Notice of Abandonment mailed August 25, 2004 on the basis that the correspondence was timely filed in accordance with 37 C.F.R. §1.8.

An Office Action was mailed in connection with the above-identified application on June 17, 2003, the shortened statutory period for a response being until September 17, 2003. The undersigned sent a complete Response to the Office on September 15, 2003 (within the period for response). Examiner Smith discussed the Office's non-receipt of the Response with the undersigned on August 17, 2004. The undersigned requested that the examiner issue a Notice of Abandonment so this Petition could be submitted and examination of the application could continue.

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Enclosed is an additional copy of the previously mailed Response and Certificate of Mailing, which certifies that the undersigned mailed the Response via first class mail to the Office on September 15, 2003.

The undersigned hereby attests on a personal knowledge basis to the previous timely mailing of the Response and Certificate of Mailing.

It is therefore respectfully submitted that the previously filed Response be considered timely and the holding of abandonment must be withdrawn.

Applicants believe that no additional fees are due under this Petition.

Respectfully submitted,

JAMES L. OVERBECK

By: Warner Norcross & Judd LLP

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